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2 **UNITED STATES DISTRICT COURT**
3 **EASTERN DISTRICT OF CALIFORNIA**
4 **FRESNO DIVISION**

5 Harlan Douglas Todd,

6 Plaintiff,

7 v.

8 Kilolo Kijakazi, Acting
9 Commissioner of Social Security,

10 Defendant.

Case No. 1:21-cv-01354-GSA

**STIPULATION FOR THE AWARD
AND PAYMENT OF ATTORNEY
FEES AND EXPENSES PURSUANT
TO THE EQUAL ACCESS TO
JUSTICE ACT; ORDER**

11 IT IS HEREBY STIPULATED by and between the parties through their
12 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded
13 attorney fees and expenses in the amount of SIX HUNDRED FIFTY-ONE DOLLARS
14 and 90/100 (\$651.90) under the Equal Access to Justice Act (EAJA), 28 U.S.C.
15 § 2412(d). This amount represents compensation for all legal services rendered on
16 behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28
17 U.S.C. § 2412(d).
18

19 After the Court issues an order for EAJA fees to Plaintiff, the government will
20 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to
21 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability
22 to honor the assignment will depend on whether the fees are subject to any offset
23 allowed under the United States Department of the Treasury's Offset Program. After
24 the order for EAJA fees is entered, the government will determine whether they are
25 subject to any offset.

26 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
27 determines that Plaintiff does not owe a federal debt, then the government shall cause
28 the payment of fees, expenses and costs to be made directly to Counsel, pursuant to

the assignment executed by Plaintiff. Any payments made shall be delivered to Plaintiff's counsel, Jonathan O. Peña.

This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney fees, and does not constitute an admission of liability on the part of Defendant under the EAJA or otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any and all claims that Plaintiff and/or Counsel including Counsel's firm may have relating to EAJA attorney fees in connection with this action.

This award is without prejudice to the rights of Counsel and/or Counsel's firm to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

Respectfully submitted,

Dated: November 10, 2021

/s/ Jonathan O. Peña
JONATHAN O. PEÑA
Attorney for Plaintiff

Dated: November 10, 2021

PHILLIP A. TALBERT
Acting United States Attorney
DEBORAH LEE STACHEL
Regional Chief Counsel, Region IX
Social Security Administration

By: * Margaret Lehrkind
Margaret Lehrkind
Special Assistant U.S. Attorney
Attorneys for Defendant
(*Permission to use electronic signature
obtained via email on November 10, 2021).

ORDER

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees and Expenses (the "Stipulation"),

IT IS ORDERED that fees and expenses in the amount of SIX HUNDRED FIFTY-ONE DOLLARS and 90/100 (\$651.90) as authorized by the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: November 11, 2021

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE